



**STATE OF NEVADA**  
**COMMISSION ON ETHICS**  
<http://ethics.nv.gov>

**Thursday, March 13, 2008**  
**1:00 p.m.**

**Legislative Counsel Bureau**  
**401 South Carson St., Room 3137**  
**Carson City, NV 89701**

**and via videoconference to:**  
**Grant Sawyer State Building**  
**Legislative Counsel Bureau**  
**555 E. Washington Avenue, Room 4412**  
**Las Vegas, NV 89119**

**MINUTES**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.  
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,  
is available for inspection at the Commission offices in Carson City and Las Vegas.

**Commission Members and Staff Present in Carson City:**

**Rick Hsu, Esq., Member**  
**George Keele, Esq., Member**  
**Patricia D. Cafferata, Esq., Executive Director;**  
**Adriana G. Fralick, Esq., General Counsel;**  
**Michelle Ené, Executive Assistant**

**Commission Members and Staff Present in Las Vegas:**

**Mark Hutchison, Esq., Chair;**  
**Tim Cashman, Vice Chair;**  
**Jim Kosinski, Esq., Member;**  
**Randall Capurro, Member;**  
**John T. Moran, III, Esq., Member**  
**Matt Di Orio, Senior Investigator;**  
**Tami DeVries, Research Analyst.**

**Others Present:**

**Lon Itson, Constable, Goodsprings Township**  
**Jayda Cooke, Witness, via telephone**

Chair Hutchison called the meeting to order at 11:03 a.m., Thursday, March 13, 2008.

Agenda Item 1 – Open Session to take action on a proposed Stipulation in the matter of the Request for Opinion 07-44C regarding the conduct of Lon Itson, Constable, Goodsprings Township, Clark County, or to hear testimony, receive evidence deliberate and render an opinion regarding the conduct of Lon Itson regarding alleged violations of NRS 281.400.2 and NRS 281A.400.7.

Lon Itson made a brief statement on his behalf. He wanted to make sure the Commissioners had received the additional supplements that he submitted. Hutchison stated that the supplemental materials had been included with their materials. Keele moved that the Commission on Ethics authorize its Chair Mark Hutchison to execute the proposed stipulation before them in Opinion No. 07-44C. Randall Capurro seconded the motion. The motion was passed unanimously. Itson accepted the Stipulation and signed it. The matter was concluded.

Agenda Items 2, 3, and 4 to be discussed later on during the meeting.

Agenda Item 5 - Open session and possible action on Commissioner Kosinski's request to discuss Executive Director giving legal opinions, pursuant to NRS 281A.240.1(e).

There was a discussion on the Executive Director and the General Counsel issuing legal opinions on their own. It was agreed that the Executive Director and the General Counsel should continue providing advice and information to the Commission but should not be giving legal advice to public officers and public employees.

Cafferata and Fralick both stated that they do not issue opinions on their own. Their procedure basically is to give a public officer or public employee the cites to the law and any prior opinions that they think will be helpful to them. And if that doesn't answer their questions and the party is still unsure, they advise them to request an advisory opinion. They also stated that they do answer basic questions with regard to filing financial disclosures.

Agenda Item 6 - Open session and possible action on Commissioner Kosinski's request to discuss procedures for negotiating third party complaints.

Keele stated that the Commission should consider a policy or statement that the Commission encourages the Executive Director when she sees circumstances that appear resolvable and without severe penalty to negotiate a settlement. Cafferata stated that she believes it is better to settle than to litigate. When she gets a panel determination and it appears to be going forward, she consults with Fralick and then makes an offer. If the Executive Director makes an offer to settle, if it is willful, the Commission can ask for a civil penalty. If it is not willful, then a civil penalty can not be imposed. Cafferata stated that the willful and the penalty issue may be something that the Commissioner should address when they get to discussing legislation.

A lunch recess was taken at 12:33 p.m. The meeting reconvened at 1:08 p.m.

Agenda Item 2 – Open session for presentation by Lorne Malkiewich, Director of the Legislative Counsel Bureau, on the Legislature and the Legislative process.

Lorne Malkiewich, Director of the Legislative Counsel Bureau gave an informational presentation on the Legislature and the legislative process.

Agenda Item 3 – Open Session for discussion and possible action on the Commission's proposed legislation and budget requests for the 2009 Legislative Session.

Cafferata informed the Commissioners that she and Fralick are meeting with the Secretary of State on the Financial Disclosure Statements on Monday, March 17, 2008, to discuss the possibility of moving all of the financial disclosure reporting to the Secretary of State's Office. Cafferata asked the Commission for some direction on the financial disclosure issue. Hutchison recommended that Cafferata propose moving all of the financial disclosure reporting to the Secretary of State's Office. Capurro seconded the motion. The motion was passed unanimously.

The Commission agreed to concentrate on three or four items from the list of proposed bill draft concepts list. The first proposed bill draft requests changes to NRS 281.236. Fralick stated that one of Hsu's concerns was the rewording of the statute so that the Commission has jurisdiction. The statute presently places the burden on the business or industry not to employ a former public officer or public employee. The intent of new legislation would shift the burden to the public officer or public employee from the business or industry. The proposed legislation for the "cooling off" was calendared for the April 10<sup>th</sup> meeting.

The second proposed bill draft requests an interim study whereby the Legislature establishes an Interim Committee to conduct an extensive review of the Ethics in Government Law and determine what reforms are necessary.

The third proposed bill draft deals with 281A.440.4. The proposed legislation would change the time period between the panel determinations to the hearing from 30 days to 60 days. Capurro moved that the time period be changed to 45 days. Moran seconded the motion. Capurro amended his motion that the time period be changed to 60 days. Moran seconded the amended motion. The motion was passed unanimously.

The fourth proposed bill draft deals with 281A.170, willful violation as it pertains to the Ethics in Government Law. Keele recommended that the provisions of Section 281A.170 be prepared in a bill draft request with the current language, the following current language deleted, "Willful violation means the public officer or employee knew or reasonably should have known that his conduct violated this chapter," and substituted in the place would be the language of subsection (5) of NRS 281A.660, "Willful violation means the public officer or employee deliberately, intentionally and knowingly violated the law, or violated this chapter." The motion failed by a three to three vote with Capurro, Cashman and Kosinski voting "no" and Keele, Moran and Hutchison voting "yes."

Cashman recommended that the Commission draft language to delete the concept of willful from the statute of 281A. (NRS 281A.170 and any statutes other than NRS 281A.660). Capurro

seconded the motion. The motion failed by a three to three vote with Keele, Hutchison and Moran voting “no” and Capurro, Cashman and Kosinski voting “yes.”

The Commissioners reviewed and discussed the Budget Enhancements Requests for the 2009 Nevada Legislature. Keele moved that the Commission approve the proposed enhancements or replacements to the budget for the coming biennium as present. Capurro seconded the motion. The motion was passed unanimously. There was a discussion on the use of audio recordings in lieu of transcriptions to assist with the budget reductions.

Keele stated that he would not be physically present for the April 10<sup>th</sup> meeting. He would be available by telephone.

Agenda Item 4 – Open Session for discussion and possible action regarding proposed changes to NAC 281. Public workshops and adoption hearing to be scheduled in accordance with NRS 233B at a later date.

This item was continued to the April meeting.

Agenda Items 5 and 6 were addressed earlier in the meeting.

Agenda Item 7 - Open session for Executive Director’s Report and discussion on letter from governor’s staff, investigations, opinions, training, administrative matters and appearances. Discussion and possible action on Commission’s priorities on website, manual, budget and legislation.

This item was continued to the April meeting.

Agenda Item 8 - Open session for discussion and possible action of gift policy, in the event the Executive Director receives a gift in the future for speaking on the Ethics Laws.

This item was continued to the April meeting.

Agenda Item 9 – Open session for public comment

No public comment was made.

Hutchison adjourned the meeting at 4:13 p.m.

Minutes transcribed by:

Minutes approved May , 2008

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Michelle A. Ené, Executive Assistant

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Timothy Cashman, Acting Chair